

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

-----X  
ANTOWINE BUTTS,

Plaintiff,

-against-

THE CITY OF NEW YORK; et al.,

Defendants.  
-----XORDER COMPELLING  
PRODUCTION

CV-01-2945(NG)(RML)

**WHEREAS**, plaintiff issued a subpoena duces tecum directed to Charles Hynes, Kings County District Attorney, commanding production of the complete file in the matter of People of the State of New York v. Antowine Butts, Ind. 339/98, and

**WHEREAS**, plaintiff provided an authorization pursuant to New York Criminal Procedure Law § 160.50, for release of the records concerning his criminal prosecution, and

**WHEREAS**, the subpoena required the production of the records on or before December 2, 2005, and

**WHEREAS**, the records have not been produced to date, and

**WHEREAS**, it appearing that said records have not been located,

**NOW, THEREFORE, IT IS HEREBY ORDERED**, that the Kings County District Attorney shall produce the records for inspection as demanded in the subpoena duces tecum on or before February <sup>23</sup> ~~24~~, 200<sup>(RML)</sup>~~6~~, and

**IT IS FURTHER ORDERED**, that if the records are not produced on or before February <sup>23</sup> ~~24~~, 200<sup>(RML)</sup>~~6~~, that the Kings County District Attorney shall submit sworn affidavit(s) to counsel for plaintiff and defendants, by person(s) with actual knowledge, setting forth the following matters:

- (1) A detailed account of the efforts made to locate the subject records, including the identities of all persons involved and their actual involvement;
- (2) A description of all records relating to the location of the subject records;
- (3) The identity of the person(s) who conducted the actual physical search for the subject records and the location(s) of that search;
- (3) The identity of the last person known to have been in possession of the subject records, and the location of the records at that time.

Dated: Brooklyn, New York  
February 15, 2006

**SO ORDERED:**

/s/

ROBERT M. LEVY  
UNITED STATES MAGISTRATE JUDGE

THE LAW OFFICES OF  
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February 15, 2006

**BY FAX TO (718)260-2647**

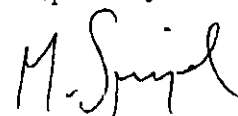
Hon. Robert M. Levy  
United States Magistrate Judge  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Butts v. NYC, et al.*  
01 Civ. 2945(NG)(RML)

Dear Judge Levy:

Pursuant to the conference with the Court on February 9, 2006, I have prepared the enclosed proposed Order Compelling Production of the case file subpoenaed from the Kings County District Attorney in this case. Defendants' counsel, Ms. Frommer, consents to the form of the order, and plaintiff respectfully requests that Your Honor issue the Order.

Respectfully submitted,



Michael L. Spiegel  
[MS 0856]

MLS:ms

cc: A.C.C. Hillary Frommer (by fax)  
Bruce A. Barket, Esq. (by fax)

# FAX TRANSMISSION

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**To:** Hon. Robert M. Levy **Date:** February 15, 2006  
**Fax #:** (718) 613-2345 **Pages:** 4, including this cover sheet  
**From:** Lauren Stephens-Davidowitz  
Legal Assistant  
**Subject:** Butts v. NYC, et al.  
01 Civ. 2945 (NG)(RML)

## COMMENTS:

Please see the attached letter from Mr. Spiegel forwarding a proposed Order Compelling Production of the case file subpoenaed from the Kings County District Attorney.

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